

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JACOB MEEKS,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:13-CV-2374-JAR
)	
MISSOURI STATE PUBLIC)	
DEFENDER SYSTEM, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff’s motion to proceed in forma pauperis. Plaintiff, a prisoner at the Missouri Eastern Correctional Center, has filed at least three previous cases that were dismissed as frivolous, malicious, or for failure to state a claim.¹ Under 28 U.S.C. § 1915(g), therefore, the Court may not grant the motion unless plaintiff “is under imminent danger of serious physical injury.”

Plaintiff brings the instant action pursuant to 42 U.S.C. § 1983. The named defendants are the Missouri State Public Defender System and Ellen Blau, a Division Director. Plaintiff alleges that his appointed attorney in a criminal matter arising in Clay County, Missouri, “did nothing but promise things that he could not fulfill” and breached the attorney-client relationship.

¹See Meeks v Sachse, 4:12CV566 ERW (E.D. Mo.); Meeks v. Boydston, 4:10CV1276 ODS (W.D. Mo.); Meeks v. Clay County Medical Staff, 4:10CV614 GAF (W.D. Mo.).

After reviewing the complaint, the Court finds no allegations indicating that plaintiff is in imminent danger of serious physical injury. Rather, plaintiff generally complains of “wrongful representation by the Missouri Public Defender System.” As a result, the Court will deny plaintiff’s motion for in forma pauperis status and will dismiss this action without prejudice to refiling as a fully paid complaint. In this regard, however, the Court notes that the “Missouri Public Defender System” is not a suable entity under § 1983, *see also Polk County v. Dodson*, 454 U.S. 312, 325 (1981) (public defenders performing lawyers' traditional functions do not act under color of state law for purposes of § 1983), and the respondeat superior theory of liability is inapplicable in § 1983 suits. See Boyd v. Knox, 47 F.3d 966, 968 (8th Cir. 1995).

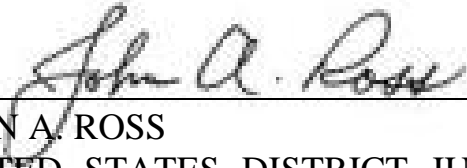
Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion to proceed in forma pauperis [Doc. #2] is **DENIED**.

IT IS FURTHER ORDERED that this action is **DISMISSED**, without prejudice to refiling as a fully paid complaint. See 28 U.S.C. § 1915(g).

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 25th day of November, 2013.

A handwritten signature in cursive script, reading "John A. Ross", is written over a horizontal line.

JOHN A. ROSS
UNITED STATES DISTRICT JUDGE